IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1627 OF 1996

1. Sankarappa G. Tonni
2. Kum. Shivleela S. Tonni ..Appellants

versus

1. Premji Bhimji Patel
2. Oriental Fire and General Insurance Co. Ltd. ..Respondents

Mr. A. Joshi i/b. S. M. Oak for the Appellants.
None for the Respondent No.1.
Mr. S. S. Vidyarthi for the Respondent No.2.

CORAM : D. G. DESHPANDE,J.

DATE : 4TH FEBRUARY,2005

ORAL ORDER :

1. Heard counsel for the appellants and the Insurance Company - Respondent No.2. Nobody is present for the Respondent No.1.

2. This Appeal is filed by the Original claimant for enhancement of compensation. Claimant No.1 is the father who was cleaner, died in an accident. His son was earning Rs.500/= per month,

his age was 22 years at the time of the accident. his father was 45 years of age and sister was 7 years. The Tribunal adopted multiplier of 10 and also taken Rs.300/- which the cleaner earned by way of daily allowance of Rs.10/-.

3. Counsel for the appellants contended that though the multiplier is properly adopted, the Tribunal had calculated only Rs.6,000/- for four years and then accepting that cleaner would have married within four years, the sum is reduced to Rs.3,000/- for six years, therefore according to him deduction of Rs.18,000/- is not proper. He further contended that in any case the compensation should be enhanced by Rs.18,000/-.

4. Counsel for the Insurance company contended that the Tribunal has rightly reduced the dependency factor after taking into consideration the marriage of the deceased in future. However, counsel for the claimant now contended that if the deceased was a cleaner, in due course, he would have become a driver and therefore there would have been rise in the income. Therefore there is plus factor in favour of the appellants and minor factors against him.

5. Considering the fact that the father had no independent income and also the age of the sister who was minor at the relevant time, the compensation can be increased by Rs.18,000/- which was deducted by the Tribunal, therefore appeal is partly allowed. Compensation awarded by the Tribunal is increased by Rs.18,000/- with 6% interest from the date of the order of the Tribunal dated 17.4.1996. No order as to costs.

4.2.2005 (D.G. DESHPANDE,J.)